

109TH CONGRESS
1ST SESSION

S. 1539

To amend part E of title IV of the Social Security Act to promote the adoption of children with special needs.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2005

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend part E of title IV of the Social Security Act to promote the adoption of children with special needs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Adoption Equality Act
5 of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) In 1997, Congress enacted the Adoption
9 and Safe Families Act of 1997 (Public Law 105–89;
10 111 Stat. 2115), clearly stating that a child’s health

1 and safety are paramount, and that each child de-
 2 serves a permanent home.

3 (2) The Adoption and Safe Families Act of
 4 1997 provides incentives for adoptions, and for fiscal
 5 year 2002, States placed nearly 53,000 children
 6 from State care.

7 (3) In 2003, the Adoption Promotion Act (Pub-
 8 lic Law 108–145, 117 Stat. 1879), which reauthor-
 9 ized the incentive program, gave greater emphasis
 10 on moving older children into permanency.

11 (4) Despite the increase in adoptions, in 2003
 12 more than 118,000 children in foster care have the
 13 permanency goal of adoption but are still waiting to
 14 be adopted.

15 (5) These children have many special needs and
 16 require Federal financial assistance and support to
 17 start the physical and emotional healing after past
 18 years of abuse and neglect.

19 **SEC. 3. PROMOTION OF ADOPTION OF CHILDREN WITH**
 20 **SPECIAL NEEDS.**

21 (a) IN GENERAL.—Section 473(a) of the Social Secu-
 22 rity Act (42 U.S.C. 673(a)) is amended by striking para-
 23 graph (2) and inserting the following:

24 “(2)(A) For purposes of paragraph (1)(B)(ii), a child
 25 meets the requirements of this paragraph if such child—

1 “(i)(I) at the time of termination of parental
2 rights was in the care of a public or licensed private
3 child placement agency or Indian tribal organization
4 pursuant to a voluntary placement agreement, relin-
5 quishment, or involuntary removal of the child from
6 the home, and the State has determined, pursuant
7 to criteria established by the State (which may, but
8 need not, include a judicial determination), that con-
9 tinuation in the home would be contrary to the safe-
10 ty or welfare of such child;

11 “(II) meets all medical or disability require-
12 ments of title XVI with respect to eligibility for sup-
13 plemental security income benefits; or

14 “(III) was residing in a foster family home or
15 child care institution with the child’s minor parent
16 (pursuant to a voluntary placement agreement, relin-
17 quishment, or involuntary removal of the child from
18 the home, and the State has determined, pursuant
19 to criteria established by the State (which may, but
20 need not, include judicial determination), that con-
21 tinuation in the home would be contrary to the safe-
22 ty or welfare of such child); and

23 “(ii) has been determined by the State, pursu-
24 ant to subsection (c), to be a child with special
25 needs, which needs shall be considered by the State,

1 together with the circumstances of the adopting par-
2 ents, in determining the amount of any payments to
3 be made to the adopting parents.

4 “(B) Notwithstanding any other provision of law, and
5 except as provided in paragraph (7), a child who is not
6 a citizen or resident of the United States and who meets
7 the requirements of subparagraph (A) shall be treated as
8 meeting the requirements of this paragraph for purposes
9 of paragraph (1)(B)(ii).

10 “(C) A child who meets the requirements of subpara-
11 graph (A), who was determined eligible for adoption as-
12 sistance payments under this part with respect to a prior
13 adoption (or who would have been determined eligible for
14 such payments had the Adoption and Safe Families Act
15 of 1997 been in effect at the time that such determination
16 would have been made), and who is available for adoption
17 because the prior adoption has been dissolved and the pa-
18 rental rights of the adoptive parents have been terminated
19 or because the child’s adoptive parents have died, shall be
20 treated as meeting the requirements of this paragraph for
21 purposes of paragraph (1)(B)(ii).”.

22 (b) EXCEPTION.—Section 473(a) of the Social Secu-
23 rity Act (42 U.S.C. 673(a)) is amended by adding at the
24 end the following:

1 “(7)(A) Notwithstanding any other provision of this
2 subsection, no payment may be made to parents with re-
3 spect to any child that—

4 “(i) would be considered a child with special
5 needs under subsection (c);

6 “(ii) is not a citizen or resident of the United
7 States; and

8 “(iii) was adopted outside of the United States
9 or was brought into the United States for the pur-
10 pose of being adopted.

11 “(B) Subparagraph (A) shall not be construed as pro-
12 hibiting payments under this part for a child described
13 in subparagraph (A) that is placed in foster care subse-
14 quent to the failure, as determined by the State, of the
15 initial adoption of such child by the parents described in
16 such subparagraph.”.

17 (c) REQUIREMENT FOR USE OF STATE SAVINGS.—
18 Section 473(a) of the Social Security Act (42 U.S.C.
19 673(a)), as amended by subsection (b), is amended by
20 adding at the end the following:

21 “(8) A State shall spend an amount equal to the
22 amount of savings (if any) in State expenditures under
23 this part resulting from the application of paragraph (2)
24 on and after the effective date of the amendment to such
25 paragraph made by section 3(a) of the Adoption Equality

1 Act of 2005 to provide to children or families any service
 2 (including post-adoption services) that may be provided
 3 under this part or part B.”.

4 (d) DETERMINATION OF A CHILD WITH SPECIAL
 5 NEEDS.—Section 473(c) of the Social Security Act (42
 6 U.S.C. 673(c)) is amended to read as follows:

7 “(c) For purposes of this section, a child shall not
 8 be considered a child with special needs unless—

9 “(1)(A) the State has determined, pursuant to
 10 a criteria established by the State (which may or
 11 may not include a judicial determination), that the
 12 child cannot or should not be returned to the home
 13 of his parents; or

14 “(B) the child meets all medical or disability re-
 15 quirements of title XVI with respect to eligibility for
 16 supplemental security income benefits; and

17 “(2) the State has determined—

18 “(A) that there exists with respect to the
 19 child a specific factor or condition (such as eth-
 20 nic background, age, or membership in a minor-
 21 ity or sibling group, or the presence of factors
 22 such as medical conditions or physical, mental,
 23 or emotional handicaps) because of which it is
 24 reasonable to conclude that the child cannot be
 25 placed with adoptive parents without providing

1 adoption assistance under this section and med-
2 ical assistance under title XIX; and

3 “(B) that except where it would be against
4 the best interests of the child because of such
5 factors as the existence of significant emotional
6 ties with prospective adoptive parents while in
7 the care of such parents as a foster child, a rea-
8 sonable, but unsuccessful, effort has been made
9 to place the child with appropriate adoptive
10 parents without providing adoption assistance
11 under this section or medical assistance under
12 title XIX.”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on October 1, 2005.

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